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**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NEW YORK**

JUDY CALIBUSO, JULIE MOSS, DIANNE  
GOEDEL, JEAN EVANS, and MARY  
DESALVATORE, on behalf of themselves  
and all others similarly situated,

Plaintiffs,

-against-

BANK OF AMERICA CORPORATION;  
MERRILL LYNCH & CO., INC.; and  
MERRILL LYNCH, PIERCE, FENNER &  
SMITH, INC.,

Defendants.

**10 Civ. 1413 (JFB) (ETB)**

**PLAINTIFFS' NOTICE OF  
SUPPLEMENTAL AUTHORITY  
RELEVANT TO MOTION TO DISMISS  
AND/OR STRIKE CLASS CLAIMS IN  
PLAINTIFFS' THIRD AMENDED  
COMPLAINT**

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**NOTICE OF SUPPLEMENTAL AUTHORITY**

Plaintiffs respectfully submit as supplemental authority the March 27, 2012 Order denying the petition for rehearing *en banc* in the matter of *McReynolds v. Merrill Lynch, Pierce, Fenner & Smith, Inc.*, No. 11-3639, a true and correct copy of which is attached hereto as Exhibit A.

Dated: March 28, 2012

Respectfully submitted,

By: /s/ Rachel Geman  
Rachel Geman

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*Attorneys for Plaintiffs and the Proposed Class*

**CERTIFICATE OF SERVICE**

I, Rachel Geman, under penalties of perjury, certify the following as true and correct: I am not a party to this action, and I am over 18 years of age. On this 28th day of March, 2012, pursuant to Local Civil Rule 5.2, I served a true and correct copy of Plaintiffs' Notice of Supplemental Authority, by causing same to be filed electronically with this Court by using the ECF system. All counsel in this action are registered ECF users.

Executed this 28th day of March, 2012 at New York, New York.

/s/ Rachel Geman

Rachel Geman

# EXHIBIT A

# United States Court of Appeals

For the Seventh Circuit  
Chicago, Illinois 60604

March 27, 2012

*Before*

RICHARD A. POSNER, *Circuit Judge*

DIANE P. WOOD, *Circuit Judge*

DAVID F. HAMILTON, *Circuit Judge*

No. 11-3639

GEORGE McREYNOLDS, *et al.*,  
on behalf of themselves and all others  
similarly situated,

*Plaintiffs-Appellants,*

*v.*

MERRILL LYNCH, PIERCE, FENNER &  
SMITH, INC.,

*Defendant-Appellee.*

Appeal from the United States District  
Court for the Northern District of  
Illinois, Eastern Division.

No. 05 C 6583

Robert W. Gettleman, *Judge.*

## ORDER

On March 9, 2012, defendant-appellee filed a petition for rehearing *en banc*. All the judges on the original panel have voted to deny the petition, and none of the judges in regular active service has requested a vote on the petition for rehearing *en banc*.\* The petition is therefore **DENIED**.

\* Circuit Judge Joel M. Flaum did not participate in the consideration of this petition for rehearing.